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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,940	09/16/2003	Kimball C. Chen	64171.000002	2033
21967 7590 08/28/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
BORISSOV, IGOR N				
ART UNIT		PAPER NUMBER		
3628				
MAIL DATE		DELIVERY MODE		
08/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: KIMBALL C. CHEN, ALEXANDER W. EVANS and
DANIEL E. SHPRECHER

Application No. 10/662,940
Technology Center 3600

Mailed: August 28, 2009

Before DEBORAH L. PERRY *Supervisory Paralegal Specialist, Review Team.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 10, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on June 24, 2009, in response to the Examiner's Answer mailed April 29, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Examiner's Acknowledgment of the Reply Brief, mailed August 6, 2009, was an improper response to the Reply Brief dated June 24, 2009, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval and signature.

CONCLUSION

Accordingly,
it is ORDERED that the application is returned to the Examiner:

- 1) vacate the Examiner's Acknowledgment of the Reply Brief mailed August 6, 2009;
- 2) issue either:

a) a corrected or Substitute Acknowledgment of Reply Brief, in accordance with MPEP§ 1208, part II.; OR

b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;

and

3) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DP/dw

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